

ENTERED

March 24, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA, EX REL, *et al.*, §
Plaintiffs, §
VS. § CIVIL ACTION NO. 2:15-CV-00208
HENRY WAYNE MCINNIS, §
Defendant. §

ORDER

Before the Court is Plaintiff's (the Government's) Motion for Summary Judgment on FCA Damages. D.E. 44. After review and consideration of the motion, the Court makes the following findings and **GRANTS** the motion in favor of the Government:

1. On January 18, 2023, the Court granted the Government's motion for summary judgment on liability against Henry Wayne McInnis for the three False Claims Act (FCA) causes of action alleged in the Complaint in Partial Intervention. D.E. 43. The Court finds that pursuant to 31 U.S.C. § 3729(a)(1), the Government is entitled to recover treble single damages and civil penalties for each violation of the FCA.

2. The Court takes judicial notice of United States District Judge Rolando Olvera's order for restitution in the amount of \$120,000,000 against McInnis's convicted co-conspirator Rodney Ysa Mesquias. *United States v. Mesquias*, No. 1:18-CR-8 (S.D.Tex. Dec. 30, 2020) (D.E. 519). The Court takes judicial notice of the Fifth Circuit

Court of Appeals ruling and opinion in the related criminal case of *United States v. Mesquias*, 29 F.4th 276 (5th Cir. 2022). The Court takes judicial notice of the Order for Default Judgment Against Defendant Rodney Ysa Mesquias in favor of the Government for treble FCA damages of \$29,627,410 and civil penalties of \$83,840,000, for a total of \$113,467,410. D.E. 39.

3. The Court finds that there is no genuine dispute that the Government suffered a single damage loss of at least \$9,875,803 from the FCA violations alleged in the Government's Complaint in Partial Intervention.

4. The Court finds that there is no genuine dispute that the Government's single damage loss was comprised of 3,463 individual false and fraudulent claims, submitted under the Medicare provider numbers of Dr. Eduardo Carrillo and Dr. Jesus Alfredo Virlar Cardena during McInnis's participation in the health care fraud conspiracy alleged in the Complaint in Partial Intervention.

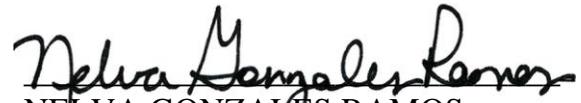
5. The Court finds that the facts underlying the FCA violations in the Complaint in Partial Intervention support a civil penalty close to the maximum permitted by 28 C.F.R. §85.5.

When there are no genuine issues of material fact, a movant is entitled to summary judgment as a matter of law. Therefore, it is the order of the Court that the Government's motion for summary judgment on FCA damages is **GRANTED**.

The Court hereby **ORDERS** Defendant McInnis to pay the United States treble single damages in the amount of \$29,627,410 and civil penalties in the amount of

\$83,840,000 for 3,463 FCA violations, for a total amount of \$113,467,410. Such amount to be paid jointly and severally with Defendant Mesquias.

ORDERED on March 24, 2023.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE